



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/707,284	12/03/2003	J. Scott Price	GEMS 0136 PUS	1283
27256	7590	10/03/2005	EXAMINER	
ARTZ & ARTZ, P.C. 28333 TELEGRAPH RD. SUITE 250 SOUTHFIELD, MI 48034			KAO, CHIH CHENG G	
			ART UNIT	PAPER NUMBER
			2882	

DATE MAILED: 10/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/707,284

Applicant(s)

PRICE ET AL.

Examiner

Chih-Cheng Glen Kao

Art Unit

2882

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 September 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1,2,4-10 and 12-24.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.


EDWARD J. GLICK
ADVISORY PATENT EXAMINER

Continuation of 3. NOTE:

Regarding claim 1 at least, the added limitations of "a non-apertured source window forming a sealed structure, that separates a source interior from an external cavity," raises new issues that would require further consideration and/or search.

Regarding claim 17 at least, the added limitations of "sealing the source housing from an external low-pressure cavity comprising a target" raises new issues that would require further consideration and/or search.

Continuation of 11. does NOT place the application in condition for allowance because:

Regarding claim 10 at least, in response to Applicants' argument that the references fail to show certain features of Applicants' invention, it is noted that the features upon which Applicants rely (i.e., a cathode portion sealed from the cavity surrounding the anode assembly) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. Claim 10 recites "a sealed electron beam source external and separate from said target and separating a source interior from a low-pressure cavity containing said rotating target". Barrett discloses a sealed (col. 5, lines 62-67) electron beam source (fig. 1, #50) external and separate from said target (fig. 1, #106) and separating a source interior (fig. 1, #64) from a low-pressure cavity containing said rotating target (fig. 1, #106). In other words, Barrett does disclose a sealed (col. 5, lines 62-67) electron beam source (fig. 1, #50). Barrett also discloses the electron beam source (fig. 1, #50) external and separate from said target (fig. 1, #106). Furthermore, Barrett discloses separating a source interior (fig. 1, #64) from a low-pressure cavity (as evidenced by col. 5, lines 62-67) containing said rotating anode (fig. 1, #106). In other words that source interior is separate from the cavity (fig. 1, cavity defined by at least #150, 150a, 150b, 104, 162, 164, and 210a) that the rotating anode is in. This cavity is low-pressured (as evidenced from col. 5, lines 62-67).

Applicants further argue that item 64 is not a source interior. The Examiner disagrees. Item 64 is a source interior. It is part of the source. It is also an interior. Therefore, it is a source interior.

Applicants further argue that cathode portion 50 does not separate the cathode assembly 52 from the cavity surrounding the anode assembly, due to the aperture therebetween. The Examiner disagrees. This cathode portion (fig. 1, #50) does separate the cathode assembly (fig. 1, #52) from the cavity (fig. 1, defined by at least #150, 150a, 150b, 104, 162, 164, and 210a) surrounding the anode assembly (fig. 1, #106), regardless of whether there is an aperture or not.

Applicants further argue that item 21 of Yamaguchi is not a window. The Examiner disagrees. This "hood", to which Applicants refer, is a window between the cathode and anode.

In conclusion, Applicants arguments are not persuasive, and claims 10, 12-16, 23, and 24 remain rejected.

Applicants further argue that the Final Office Action was improper. The Examiner disagrees. The amendments to claims 1, 2, 4-10, and 12-24 necessitated the new ground(s) of rejection presented in that Office Action. Accordingly, that action was made final. Those amendments raised new issues that required further consideration and/or search.

On one final note, Applicants argue that a sealed electron beam source having an aperture or window with a hole would not make sense. The Examiner disagrees. As seen in Barrett the electron beam source (fig. 1, #50) is sealed (as evidenced by col. 5, lines 62-67), regardless of whether the aperture or hole is there or not. The electron beam source is still sealed (col. 5, lines 62-67).